Supreme Court, U.S.
FILED
AUG 5 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-32

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

RICHARD W. MOREY and DIANA W. MOREY,

Petitioners,

v.

BARRINGTON PRESS, INC.,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

REPLY BRIEF FOR PETITIONERS

EDWARD STUART MARGOLIS
TELLER, LEVIT & SILVERTRUST, P.C.
11 East Adams Street
8th Floor
Chicago, Illinois 60603
(312) 922-3030
Attorney for Petitioners

Midwest Law Printing Co., Chicago 60611, (312) 321-0220

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

RICHARD W. MOREY and
DIANA W. MOREY,

Petitioners,

v.

BARRINGTON PRESS, INC.,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

REPLY BRIEF FOR PETITIONERS

IF THE WRIT OF CERTIORARI IS GRANTED AND THE DECISION OF THE SEVENTH CIRCUIT COURT OF APPEALS REVERSED, THERE WILL BE A JUSTICIABLE CONTROVERSY AND THE PETITIONERS WILL PREVAIL.

The Respondent in its opposing brief asserts that there is no justiciable case or controversy before this Court as "the Petitioners will be precluded on remand from challenging the Respondent's entitlement to attorneys' fees." (Respondent's brief p. 8). This conclusion is based upon the opinion of the Seventh Circuit Court of Appeals in *Barrington Press, Inc. v. Morey*, 816 F.2d 341 (7th Cir.

1987) which stands for the proposition that an order awarding attorneys' fees without making a determination as to amount is a final and appealable order.

The Petitioners have taken exception to this ruling and have asked this Court to grant their petition for writ of certiorari for the reasons as set out in their initial brief. The fact remains that under the Petitioners' view the ruling on attorneys' fees was not a final order until the District Court on remand ruled that the Respondent was entitled to no attorneys' fees. Prior to the remand, the trial court had heard no testimony and had never awarded attorneys' fees in any amount. Accordingly, there was no final order precluding the District Court from finding that the amount of attorneys' fees due was nothing.

If the writ of certiorari is granted and the decision of the Circuit Court of Appeals reversed, the opinion of the District Court finding no attorneys' fees due will be reinstated and the Petitioners will prevail.

Respectfully submitted,

EDWARD STUART MARGOLIS
TELLER, LEVIT & SILVERTRUST, P.C.
11 East Adams Street
8th Floor
Chicago, Illinois 60603
(312) 922-3030
Attorney for Petitioners